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EXAMINER

PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 01/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/044,682

Applicant(s)

SCHMIDT ET AL.

Examiner

David J Parsley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-23 is/are allowed.
- 6) ☒ Claim(s) 1-8, 12-20 and 24 is/are rejected.
- 7) ☒ Claim(s) 10 and 11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

Detailed Action

Amendment

1. This office action is in response to applicant's amendment (paper no. 8) dated 10-21-03 and this action is non-final.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites the limitation "said central shafts" in 10. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 depends from rejected claim 12 and includes all of the limitations of claim 12 thereby rendering this dependent claim indefinite.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by EP Patent No. 0819382 to Janssen.

Referring to claims 1 and 24, Janssen discloses an apparatus for transferring poultry carcasses suspended from shackles from a first overhead conveyor – at 2, to a second overhead conveyor – at 4 comprising, a transfer wheel – at 8, rotatable about a vertical axis for positioning between both the first and the second overhead conveyors, the transfer wheel being provided with holders – at 38,40 and 46,48, for the carcasses, the holders being rotatable with respect to the transfer wheel, and orientation means – at 24 and 42-44,50-54 operatively associated with the transfer wheel, further being present for equalizing the spatial initial orientation of the carcass in the holder at receipt on the transfer wheel and the spatial final orientation of the carcass in the holder at its discharge from the transfer wheel, the spatial initial orientation and the spatial final orientation being identical relative to the direction of travel of the carcass from the first overhead conveyor to the second overhead conveyor – see for example figure 1.

Referring to claim 2, Janssen discloses the orientation means being adapted for keeping spatial orientation of the carcass in the holder constant during the transport on the transfer wheel – see for example figures 1-9.

Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,574,428 to Meyn, U.S. Patent No. 5,453,045 to Hobbel et al. or EP Patent No. 736255 to Veraart.

Referring to claim 12, Meyn, Hobbel and Veraart disclose an apparatus for transferring poultry carcasses from a first overhead conveyor – 10 of Meyn – 11 of Hobbel and – 1 of Veraart to a second overhead conveyor – proximate 82 of Meyn – 12 of Hobbel and – 8 of Veraart, in which overhead conveyors the carcasses are transported suspended from shackles – see figures 1-7 of Meyn – see figures 1-4 of Hobbel and – at 2 of Veraart, comprising a transfer wheel – at 40 of Meyn – 15 of Hobbel and – 21 of Veraart rotatable about a vertical axis and positioned between both the first and second overhead conveyors, the transfer wheel being provided with holders – proximate 54 of Meyn – at 23 of Veraart and – at 17, 77 of Hobbel, for the carcasses radially spaced from the vertical axis of the transfer wheel and each holder having a central shaft – see figures 3-4 of Meyn – see figures 1-2 of Veraart and – at 31,35,36 of Hobbel, about which it rotates and orientation means – at 61, 68, 70 of Meyn – at 14-15 and 18-19 of Veraart and – at 16 and 19 of Hobbel, responsive to the rotation of the transfer wheel for rotating each of the holders further being present for rotating each of the holders with respect to the transfer wheel during transport of the holders by the transfer wheel – see for example figures 1-7 of Meyn – figures 1-2 of Veraart and figures 1-4 of Hobbel.

Claims 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,514,033 to Berry.

Referring to claim 14, Berry discloses a holder – at 19, 19', for suspended transport of poultry, provided with two substantially parallel accommodation spaces – proximate 24-27

and/or 24'-27', for the legs of the poultry, the accommodation spaces each forming a continuous open ended slit in a horizontal direction, the distance between the accommodation spaces at their one end being different from the distance at their other end – see for example figures 5-6.

Referring to claim 15, Berry discloses inclined turned end members being arranged on either side of one end of the accommodation spaces to prevent unintentional backwards movement of the legs – see for example figure 6.

Referring to claim 16, Berry discloses the distance between the accommodation spaces being larger at one end than at the other end, and inclined turned end members being arranged on either side of one of the accommodation spaces to prevent unintentional backwards movement of the legs – see for example figures 5-6.

Claims 14-16 are rejected under 35 U.S.C. 102(e) as being anticipated by EP Patent No. 1038443 to Meyn.

Referring to claim 14, Meyn discloses a holder for suspended transport of a poultry carcass, provided with two substantially parallel accommodation spaces for the legs of the carcass, the accommodation spaces each forming a continuous open ended slit – at 3 and 4, in horizontal direction, the distance between the accommodation spaces at their one end being different from the distance therebetween at the other end – see for example figures 1-2 and columns 4-5.

Referring to claim 15, Meyn discloses inclined turned end members being arranged on either side of one of the accommodation spaces to prevent unintentional backwards movement of the legs – see for example figures 1-2.

Referring to claim 16, Meyn discloses the distance between the accommodation spaces being larger at the one end than at the other end, and inclined turned end members being arranged on either side of one of the accommodation spaces to prevent unintentional backwards movement of the legs – see for example figures 1-2.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janssen as applied to claim 2 above, and further in view of U.S. Patent No. 4,791,704 to Chapman.

Referring to claims 3-4, Janssen does not disclose the holders being mounted in the transfer wheel to be rotatable about themselves about a vertical axis and the orientation means being adapted for relative rotation of the holders with respect to the transfer wheel. Chapman does disclose the holders being bearing mounted in the transfer wheel – 6 to be rotatable about themselves about a vertical axis – see for example figures 3-5 and columns 3-4, and the orientation means being adapted for relative rotation of the holders with respect to the transfer wheel – 6 – see for example figures 3-5 and columns 3-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Janssen and add the rotatable holders of

Chapman, so as to allow for the device to be more flexible and adaptable in that the carcasses can be placed into different configurations during processing.

Referring to claims 5, Janssen as modified by Chapman further disclose the holders rotate 1:1 with the transfer wheel – see for example figure 1 of Janssen.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Janssen as modified by Chapman as applied to claim 4 above, and further in view of U.S. Patent No. 6,033,299 to Stone et al.

Referring to claim 6, Janssen as modified by Chapman further disclose the orientation means comprising first orientation means for orienting a first of the holders and second orientation means for orienting others of the holders – see for example figure 1 of Janssen. Janssen as modified by Chapman does not disclose the second orientation means are operated by the first orientation means. Stone et al. does disclose the second orientation means are operated by the first orientation means – see for example – 74 and columns 3-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Janssen as modified by Chapman and add the first orientation means operating the second orientation means of Stone et al., so as to provide more accurate and efficient control of the orientation means to allow for more efficient processing of the carcass.

Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janssen as modified by Chapman and Stone et al. as applied to claim 6 above, and further in view of U.S. Patent No. 5,453,045 to Hobbel et al.

Referring to claim 7, Janssen as modified by Chapman and Stone further disclose the transfer wheel being connected to a vertical shaft in a rotatably fixed manner, the shaft being

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rotatable about the vertical axis – see figure 1 of Janssen. Janssen as modified by Chapman and Stone does not disclose the orientation means comprising a first driving disc provided on the first holder, a second driving disc placed loosely on the axis but retained in spatial orientation and a driving belt or driving chain running circumferentially about both. Hobbel et al. does disclose the orientation means comprising a first driving disc – 19 provided on the first holder - 17, a second driving disc – 16 placed loosely on the axis but retained in spatial orientation and a driving belt or driving chain running circumferentially about both – see for example figures 1-2 and columns 4-6. Therefore it would have been obvious to one of ordinary skill in the art to take the poultry transfer apparatus of Janssen as modified by Chapman and Stone and add the driving discs and chain connected to the first holder of Hobbel et al., so as to provide an efficient means to drive the first holder so as to allow for easy transfer of the poultry carcass.

Referring to claim 8, Janssen as modified by Chapman, Stone and Hobbel et al. further discloses the diameter of both driving discs – 16 and 19 being equal – see for example figures 1-2 of Hobbel.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyn, Hobbel and Veraart as applied to claim 12 above, and further in view of U.S. Patent No. 6,033,299 to Stone et al. Meyn, Hobbel and Veraart do not disclose the orientation means being adapted for letting the holders rotate 1:1 with the transfer wheel. Stone et al. does disclose the orientation means being adapted for letting the holders rotate 1:1 with the transfer wheel – 70 - see for example column 3 lines 50-67 and column 4 lines 1-18. Therefore it would have been obvious to one of ordinary skill in the art to take the poultry transfer apparatus of Meyn, Hobbel or Veraart and add the holders rotating 1:1 with the transfer wheel of Stone et al., so as to allow for the

transfer wheel and holders to be driven by the same power means without any gearing or other components thus making the device cheaper to build and operate.

Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janssen or Meyn '428, Veraart or Hobbel as applied to claims 1 and 12 above, and further in view of EP Patent No. 1038443 to Meyn.

Referring to claims 17-20, Janssen, Meyn '428, Veraart and Hobbel do not disclose the holders being provided with accommodation spaces for the legs of the carcasses, the accommodation spaces each forming an open ended horizontal slit, and the distance between the accommodation spaces of the holders at their one end of the holders being different from the distance therebetween at their other end of the holders. Meyn '443 does disclose accommodation spaces at – 3-5 for the legs of the carcass, the accommodation spaces forming a continuous horizontal slit – see for example figures 1-2, and the distance between the accommodation spaces at their one end being different from the distance therebetween at their other end – see for example figures 1-2 where the distance between the inner portions – 8 of the slit differ from the distance between the outer portions – at 6. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Janssen or Meyn '428, Veraart or Hobbel and add the holder of Meyn '443, so as to allow for less impedance to the movement of the carcass inside the holder.

Allowable Subject Matter

4. Claims 10-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim

and any intervening claims. The limitation "...a central toothed wheel freely rotatable on the shaft and driven by the first toothed wheel, and second toothed wheels each attached in a rotatably fixed manner to the other holders, which second toothed wheels are in driven engagement with the central toothed wheel..." in claim 10 is not found in the prior art.

Claims 21-23 are allowed. The limitation "...said holder orientation means configured so that each carcass received by a holder maintains its rotational orientation as received at the carcass receipt point continuously until delivered to the carcass discharge point..." in claim 21, is not found in the prior art.

Response to Arguments

5. Applicant's arguments with respect to claims 1-8 and 14-20 have been considered but are moot in view of the new ground(s) of rejection.

Regarding claim 12, the Veraart reference EP 0736255 does disclose orientation means – at 14-15 and 18-19, responsive to the rotation of the transfer wheel – at 21, for rotating each of the holders – at 23 as seen in figures 1-2, about the central shafts – at 25 or at the shafts causing the wheels – at 14-15, 18-19 and 21 to rotate, and with respect to the transfer wheel during the transport of the holders by the transfer wheel as seen in figures 1-2 where the holders are allowed to be rotated by the orientation means – at 14-15 and 18-19 at different speeds than the transfer wheel – 21.

Regarding claim 12, the Hobbel reference US 5453045 does disclose orientation means – at 16 and 19, responsive to the rotation of the transfer wheel – at 15, for rotating each of the

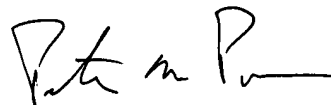
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holders – at 17,77 as seen in figures 1-2, about the central shafts – at 31,35,36 and with respect to the transfer wheel during the transport of the holders by the transfer wheel as seen in figures 1-2 where the holders are allowed to be rotated by the orientation means – at 16 and 19 at different speeds than the transfer wheel – 15.

Conclusion

6. Any inquiry concerning this communication from the examiner should be directed to David Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on Monday-Friday from 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574.



Peter M. Poon
Supervisory Patent Examiner
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